

**RESPONSE UNDER 37 C.F.R. 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP 1655**

Attorney Docket No.: 5600-84

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Simmons et al.

Confirmation No.: 6682

Serial No.: 10/601,241

Group Art Unit: 1655

Filed: June 20, 2003

Examiner: Qiuwen Mi

For: **LIQUID COMPOSITIONS COMPRISING NON-DIGESTIBLE  
OLIGOSACCHARIDES AND GREEN TEA CATECHINS**

Date: August 18, 2008

Mail Stop AF  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO FINAL OFFICE ACTION MAILED MARCH 17, 2008**

Sir:

This paper is responsive to the Final Office Action (“the Final Action”) mailed March 17, 2008.

**Remarks** begin on page 2 of this paper.

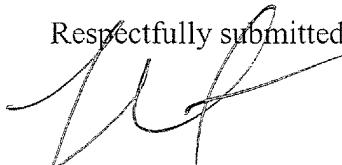
In re: Simmons et al.  
Serial No. 10/601,241  
Filed: June 20, 2003

## REMARKS

Applicants appreciate the thorough examination of the present application as evidenced by the Final Action mailed March 17, 2008. A petition for a two-month extension of time is filed concurrently herewith to maintain pendency of the present application to the filing of a Continuation-In-Part Application.

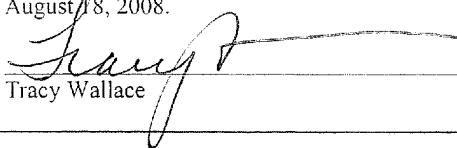
Applicants assert that the filing of said Continuation-In-Part Application does not represent an acquiescence or agreement with any of the outstanding rejections of the claims in the present application. Should the Examiner have any remaining questions or concerns, it is respectfully requested that the Examiner contact the undersigned Attorney at (919) 854-1400.

Applicants hereby authorize the Commissioner to charge Deposit Account No. 50-0220 in the amount of \$230.00 for a two-month extension of time. Applicants believe this amount to be correct; however, the Commissioner is hereby authorized to charge any deficiency or credit any refund to Deposit Account No. 50-0220.

Respectfully submitted,  
  
F. Michael Sajovec  
Registration No.: 31,793

**USPTO Customer No. 20792**  
Myers Bigel Sibley & Sajovec  
Post Office Box 37428  
Raleigh, North Carolina 27627  
Telephone: 919/854-1400  
Facsimile: 919/854-1401

**CERTIFICATION OF TRANSMISSION**  
I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on August 18, 2008.

  
Tracy Wallace

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Simmons et al.

Confirmation No.: 6682

Serial No.: 10/601,241

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Filed: June 20, 2003

Examiner: Qiuwen Mi

For: **LIQUID COMPOSITIONS COMPRISING NON-DIGESTIBLE  
OLIGOSACCHARIDES AND GREEN TEA CATECHINS**

Date: August 18, 2008

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION AND FEE FOR EXTENSION OF TIME  
(37 C.F.R. § 1.136(a))

1. This is a petition for an extension of time for a total period of (2) months to respond to the Final Office Action mailed March 17, 2008.

2. A response in connection with the matter for which this extension is requested:

is filed herewith.

has been filed.

3. Applicant:

Claims small entity status. See 37 CFR 1.27.

Does not claim small entity status.

4. Calculation of extension fee (37 C.F.R. § 1.17(a)-(d)):

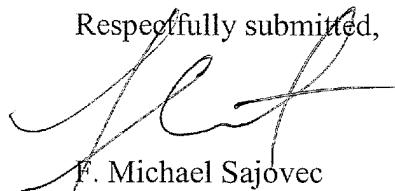
Total Months <u>Requested</u>	Fee For Other <u>Than Small Entity</u>	Fee for <u>Small Entity</u>
<input type="checkbox"/> one month	\$120.00	\$60.00
<input checked="" type="checkbox"/> two months	\$460.00	\$230.00
<input type="checkbox"/> three months	\$1,050.00	\$525.00
<input type="checkbox"/> four months	\$1,640.00	\$820.00
<input type="checkbox"/> five months	\$2,230.00	\$1,115.00

Fees Due \$230.00

Attorney Docket No. 5600-84  
In re: Simmons et al.  
Application Serial No.: 10/601,241  
Filed: June 20, 2003

- The Commissioner is authorized to charge Deposit Account No. 50-0220 in the amount of \$230.00 as fee for a two-month extension of time for a small entity.
- Payment by credit card (Form PTO-2038) is enclosed.
- Charge Deposit Account No. 50-0220 for any additional extension and/or fee required or credit for any excess fee paid.

Respectfully submitted,

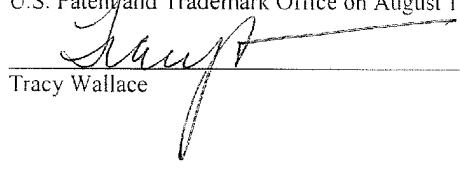


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**CERTIFICATION OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on August 18, 2008.



Tracy Wallace

## Electronic Patent Application Fee Transmittal

<b>Application Number:</b>	10601241
<b>Filing Date:</b>	20-Jun-2003
<b>Title of Invention:</b>	Liquid compositions comprising non-digestible oligosaccharides and green tea catechins
<b>First Named Inventor/Applicant Name:</b>	Donald L. Simmons
<b>Filer:</b>	F. Michael Sajovec/Tracy Wallace
<b>Attorney Docket Number:</b>	5600-84

Filed as Small Entity

### Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
<b>Basic Filing:</b>				
<b>Pages:</b>				
<b>Claims:</b>				
<b>Miscellaneous-Filing:</b>				
<b>Petition:</b>				
<b>Patent-Appeals-and-Interference:</b>				
<b>Post-Allowance-and-Post-Issuance:</b>				
<b>Extension-of-Time:</b>				
Extension - 2 months with \$0 paid	2252	1	230	230

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
<b>Miscellaneous:</b>				
<b>Total in USD (\$)</b>				<b>230</b>

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	3796841
<b>Application Number:</b>	10601241
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	6682
<b>Title of Invention:</b>	Liquid compositions comprising non-digestible oligosaccharides and green tea catechins
<b>First Named Inventor/Applicant Name:</b>	Donald L. Simmons
<b>Customer Number:</b>	24978
<b>Filer:</b>	F. Michael Sajovec/Tracy Wallace
<b>Filer Authorized By:</b>	F. Michael Sajovec
<b>Attorney Docket Number:</b>	5600-84
<b>Receipt Date:</b>	18-AUG-2008
<b>Filing Date:</b>	20-JUN-2003
<b>Time Stamp:</b>	15:32:10
<b>Application Type:</b>	Utility under 35 USC 111(a)

### Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$230
RAM confirmation Number	731
Deposit Account	500220
Authorized User	

### File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/Message Digest	Multi Part/.zip	Pages (if appl.)

1		5600_84_response.pdf	189334 6f396dd56917aa73a5fbdedee162f292b722de8c	yes	4				
<b>Multipart Description/PDF files in .zip description</b>									
<b>Document Description</b>		<b>Start</b>		<b>End</b>					
Amendment After Final		1		1					
Applicant Arguments/Remarks Made in an Amendment		2		2					
Extension of Time		3		4					
<b>Warnings:</b>									
<b>Information:</b>									
2	Fee Worksheet (PTO-06)	fee-info.pdf	30095 57936d48cc1d377c093299f31d7f2aa3bab8c6f2	no	2				
<b>Warnings:</b>									
<b>Information:</b>									
<b>Total Files Size (in bytes):</b>				219429					
<p><b>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</b></p> <p><b>New Applications Under 35 U.S.C. 111</b>  If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><b>National Stage of an International Application under 35 U.S.C. 371</b>  If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><b>New International Application Filed with the USPTO as a Receiving Office</b>  If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>									